

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LEE L. BROADEN, VI, a minor child,
by and through his next friend, Danniell
C. Dominic,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner
of Social Security Administration,

Defendant.

8:07CV442

ORDER

This matter is before the court on Lee I. Broaden, VI's ("plaintiff") motion for attorney fees, Filing No. [21](#), under the Equal Access to Justice Act ("EAJA"), [28 U.S.C. § 2412 \(2006\)](#). Pursuant to sentence four of 42 U.S.C. § 405(g), the court entered an order and judgment reversing the Administrative Law Judge and awarding the plaintiff Social Security benefits. Filing No. [19](#) and Filing No. [20](#). Thereafter, plaintiff filed this motion for attorney fees with accompanying exhibits and brief. Filing No. [22](#) and Filing No. [23](#). Plaintiff requests compensation for 27.2 hours of attorney time, for a total of \$4,658.00. Defendant does not object to the plaintiff's motion and requests that the court award plaintiff attorney fees and expenses in the amount of \$4,658.00. Filing No. [24](#).

The court concludes that plaintiff is a "prevailing party" who is entitled to a reasonable attorney fee award. The court has conducted an independent evaluation of the statement for professional services by considering the hourly rate charged by the attorney and has analyzed the number of hours expended on the case and the type of work performed and has determined that 27.2 hours of attorney time for this case is reasonable.

See Hensley v. Eckerhart, 461 U.S. 424, 434 (1983). Because the requested hourly rate exceeds the usual rate of \$125 per hour established in the 1995 amendment to 28 U.S.C. § 2412(d)(2)(D)(2)(A), plaintiff's attorney has submitted information regarding the increase in cost of living since 1995. Filing No. 22, Exh. 3. The court determines, pursuant to § 2412(d)(2)(D)(2)(A), that an increased cost of living justifies the fee to the extent that the fee requested by plaintiff and agreed to by defendant exceeds the usual rate.

The court has carefully reviewed the record and, in particular, the itemized amounts set forth in Filing No. 22, Exhibit B. The court concludes the amount of \$4,658.00 is a reasonable attorney fee in this matter.

THEREFORE, IT IS ORDERED that plaintiff's motion for attorney fees, Filing No. 21, is granted. Plaintiff is awarded attorney fees in the amount of \$4,658.00.

DATED this 10th day of June, 2009.

BY THE COURT:

s/ Joseph F. Bataillon
Chief District Judge